

### REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-3 have been cancelled. Claims 4, 5 and 6 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the Amendments and Remarks as set forth hereinbelow.

### CLAIM FOR PRIORITY

It is gratefully acknowledged that the Examiner has recognized the Applicant's claim for foreign priority. In view of the fact that the Applicant's claim for foreign priority has been perfected, no additional action is required from the Applicants at this time.

### DRAWINGS

The Examiner has objected to Fig. 5 as not being labeled as "PRIOR ART." Attached hereto is a Letter to the Official Draftsperson with a corrected copy of Fig. 5 labeled as "PRIOR ART." The Examiner is respectfully requested to approve the drawings. If the drawings require any additional corrections, the Examiner is respectfully requested to immediately contact the undersigned so that appropriate action may be taken.

### REJECTIONS UNDER 35 USC 102 and 103

Claims 1 and 3-5 stand rejected under 35 USC 102 as being anticipated by Konomi, U.S. 4,588,867. Claims 1 and 2 stand rejected under 35 USC 102 as being anticipated by Kobayashi et al, U.S. 6,061,459. Claims 3-5 stand rejected under 35 USC 103 as being unpatentable over Kobayashi et al in view of Konomi. These rejections are respectfully traversed.

At the outset, claims 1-3 have been cancelled and replaced with claim 6. The Examiner's rejections of claims 1 and 2 as being anticipated by the Kobayashi et al patent has been obviated by the cancellation of claims 1 and 2. In addition, it is respectfully submitted that claim 6 is not anticipated by the prior art cited by the Examiner. As set forth in Section 2131 of the MPEP Revision 1, February, 2000, page 2100-54:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. Of California*, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claims." *Richardson v. Suzuki Motor Co.*, 868 F2d 1226, 1236, 9 USQP2d 1913, 1920 (Fed. Cir. 1989).

The present invention is directed to a combination of elements wherein an electronic instrument case is provided that includes an opening for discharging sounds produced by the sound producing device, the sound producing device comprises a housing, electroacoustic transducer parts mounted in the housing, a sound discharging

nozzle projecting from the housing and in communication with an upper chamber of the sound producing device so as to discharge sounds produced by the electroacoustic transducer parts. The sound discharging nozzle is inserted in the opening formed of the electronic instrument case.

The present invention permits the sound producing nozzle to be inserted in the opening of the instrument case with the nozzle projecting from the housing and being in communication with the opening. It is not necessary to accurately position the sound producing device in the instrument case. Thus, the sound producing device can be easily mounted in the instrument case.

The examiner states:

"Regarding claim 3, Konomi shows: A first case (2, 4, 5) having an opening (2c); A sound producing device (see 6, 9, 15); A second case (6, 15); An electroacoustic transducer (9); A sound discharging nozzle (6c); An upper chamber (in 6). the sound discharging nozzle (6c) is in the opening (2c)."

However, the Konomi patent does not provide an instrument case in which an electronic instrument is mounted. The first case (2, 4, 5) indicated by the Examiner is not a first case in which electronic instrument is mounted, and a second case (6, 15) is not a case but pipe and damper. The pipe (6c) designated by the Examiner as a nozzle does not project from a case. Hence, the pipe (6c) is not inserted in the opening of an instrument case.

The ear microphone of Konomi corresponds to the sound producing device (10) of the present invention. The nozzle (28) of the present invention projects from the case of the sound producing device. Therefore, the pipe (6c) of Konomi does not correspond to a nozzle as set forth in the claims of the present invention.

With regard to the Kobayashi et al patent as modified by the Konomi patent, the Examiner acknowledges that the Kobayashi et al patent does not disclose a sound discharging nozzle that is inserted in an opening. It is respectfully submitted that it would not be obvious to modify the Kobayashi et al patent as suggested by the Examiner with the disclosure of the Konomi patent. As stated above, the Konomi patent discloses a pipe (6c) that does not project from the case nor is the pipe (6c) inserted in the opening.

The Examiner is respectfully requested to reconsider his rejections based on 35 USC 102 and 103. The prior art cited by the Examiner does not set forth each and every element as defined in the claims. In addition, the claims of the present invention are directed to a combination of elements that clearly define patentable subject matter over the combination of prior art patents relied on by the Examiner. It is respectfully submitted that the Examiner's rejections based on 35 USC 102 and 103 have been obviated.

### CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 205-8000 in the Washington, D.C. area.

A prompt and favorable consideration of this Amendment is respectfully requested.

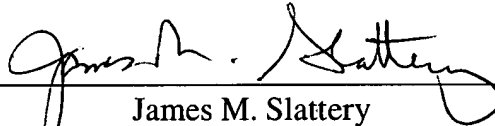
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No.

02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly,  
extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

  
James M. Slattery  
Reg. No. 28,380

JMS/mmi

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000